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HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved for Order on : 11.07.2019

Order Passed on : 29.07.2019

CR.M.P. No. 1292 of 2016

Dhirendra Singh, S/o. Late Chhedi Singh, Aged About 52 Years, R/o. House No.398, Ward No.22, Camp- 1, Bhilai, Post Supela, District Durg, Chhattisgarh.

---- Petitioner

Versus

1. N.K.Rathi (Retired Shoulder), aged About 68 years, R/o. Quarter No. 41/D, Street No. 70, Sector-6, Bhilai, Tahsil and District Durg, Chhattisgarh.
2. Reshma Rani, D/o. N.K. Rathi, Aged About 36 years, R/o. Quarter No.41/D, Street No.70, Sector- 6, Bhilai, Tahsil and District Durg, Chhattisgarh.
3. Dinesh Jha (Senior Member) and President, aged about 68 years, Divisional Ex-Shoulder Welfare Association, Bhilai, R/o. Quarter No. 1267, Street No.25, Post Supela, Bhilai, Tahsil and District Durg, Chhattisgarh.
4. J.S. Villiam (Vice President), aged about 54 years, Divisional Ex-Shoulder Welfare Association, Bhilai, R/o. Quarter No. 1267, Street No.25, Post Supela, Bhilai, Tahsil and District Durg, Chhattisgarh.
5. State Of Chhattisgarh, Through : District Magistrate, Durg, District Durg, Chhattisgarh.

-----Respondents

For Petitioner	: Mr. Jitendra Gupta, Advocate
For Respondents No.1 to 4	: Ms. Kiran Singh on behalf of Mr. Uttam Pandey, Advocate
For Respondents/State	: Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

C A V ORDER

29/07/2019

1. Petition has been brought under Section 482 of Cr.P.C. praying for grant of relief.
2. It is submitted that a complaint was filed by the respondent No.3 and 4 against the respondent No.1 and 2 before the Court of learned Judicial Magistrate First Class, Durg. The learned Court below by order dated 27.04.2015 took cognizance in the complaint for trial of offence under Section 467, 468, 471, 420, 120-B of the Indian Penal Code. The respondent No.3 and 4 has actually filed this complaint on behalf of the Ex-Service Men Welfare Association and they were acting as representative of the Ex-Service Men Welfare Association. Therefore, the respondents No.3 and 4 did not have any authority to compromise with the respondent No.1 and 2. The petitioner has also objected to the compromise by filing objection (Annexure P/3) before the Court of Judicial Magistrate First Class. But the respondent No.3 and 4 deliberately made false statement in the evidence before the charge on the basis of which, the respondent No.1 and 2 were discharged by order dated 11.07.2016 vide Annexure P-2. This act on the part of the respondent No.3 and 4 was very clearly against the wishes and intention of all the members of the Ex-Service Men Welfare Association. The order of the trial Court

dated 11.07.2016 was upheld by the Revisional Court by order dated 15.09.2016, passed in Criminal Revision No.197/2016, therefore, the prayer has been made to set-aside the orders of the Courts below.

3. On behalf of the respondents, the counsel has submitted that the petitioner was not a party in the said complaint case and the said complaint was not filed by the Association or on behalf of the Association. Reference has been made to C.G. Society Registrikaran Adhiniyam, 1973 that in such a case, the trial Court was not competent to take cognizance, where the complaint was not filed by an officer notified by the State Government, therefore, prayed that the petition be dismissed.
4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. On perusal of the copy of the complaint filed as Annexure P-13, it is found that the respondents No.3 and 4 are arrayed as complainants. Although there is mention of their position in the Association but there is no mention that Association is one of the party to the complaint. Therefore, it can not be said that it is a complaint made by the Society/Association by Ex-Service Men Welfare Association. Further there is no mention in the body of the complaint that respondent No.3 and 4 have filed this complaint after taking approval from the Society/Association in a general body meeting.

6. Another point for consideration, which is important in this case is this that a compromise petition filed by the respondent No.3 and 4 was dismissed by the trial Court and thereafter, on the basis of the statement that were recorded under Section 202 of Cr.P.C., the learned Judicial Magistrate First Class found that there is no substance to proceed with the complaint, therefore, the order of discharge was passed in favour of the respondent No.1 and 2. Therefore, it is clearly found that the complaint case has not terminated on the basis of the compromise on the other hand, it was terminated on the basis of lack of evidence of prosecution.
7. Therefore, after perusal of the entire documents filed along with the petition, I am of this view that there is no substance on the basis of which, the complaint case could have been continued against the respondents No.1 and 2. Hence after due consideration I do not find any substance in this petition, which is dismissed accordingly.

Sd/-
(Rajendra Chandra Singh Samant)
Judge